IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	CASE NO. 4:16-CR-00329-SL
Plaintiff,	)	JUDGE LIOI
vs.	)	MAGISTRATE JUDGE BAUGHMAN
EDWARD R. HILLS, *et al.*	)	**DEFENDANT TARIQ SAYEGH'S REPLY IN SUPPORT OF MOTION TO MODIFY CONDITIONS OF BOND**
Defendants.	)	

The Government's Response in Opposition to Dr. Sayegh's Motion to Modify the Conditions of Bond ("Gov't Opp'n," ECF No. 170) incorrectly states that nothing has changed to justify removal of Mr. Sayegh's ankle bracelet and curfew restrictions. As a threshold matter, while the Government characterizes Dr. Sayegh's motion as a "third motion" to modify the conditions of his bond, it ignores that the relief requested – the removal of Dr. Sayegh's GPS monitoring device and curfew conditions – is entirely new.[1] Nor does the Government acknowledge that this Court must impose "the least restricted further condition, or combination of conditions" to ensure Dr. Sayegh's appearance at trial; that the Supreme Court has instructed that "the proper inquiry is whether [pretrial] conditions amount to punishment;" and that this

[1] On October 28, 2016, Dr. Sayegh's former counsel filed a short motion to reduce the amount of Dr. Sayegh's cash bond from $100,000 to $25,000. (ECF No. 26.) While that motion remained pending, Dr. Sayegh's current counsel supplemented it by filing a separate motion containing additional legal and factual arguments in support of a reduced bond. (ECF No. 60.) Neither of these prior motions requested removal of the pretrial conditions concerning the electronic monitoring device and curfew restrictions. *See id.*

Court may amend Dr. Sayegh's conditions of release at any time. (*See* Mot. to Modify Conditions of Bond, ECF No. 167 ("Sayegh Mot.") at 4-5.)

Notably absent from the Government's Opposition is ***any*** purported explanation to justify its insistence that Dr. Sayegh be subjected to continued electronic monitoring and curfew restrictions to ensure his appearance at trial, much less any attempt to satisfy its burden to do so by a preponderance of the evidence as required by the Bail Reform Act. Moreover, this Court should reject the Government's contention that the length of time between the arraignment and the new trial date – ***a period of almost two years*** – does not amount to a changed circumstance warranting a modification of Dr. Sayegh's conditions of release. Neither Dr. Sayegh nor his former counsel could have anticipated at Dr. Sayegh's arraignment that the trial in this matter could possibly take place nearly two years later, due not to the complexity of the case, but rather a conflict issue with another defendant's counsel with which Dr. Sayegh had no connection whatsoever. Had Dr. Sayegh and his former counsel had any idea that Dr. Sayegh would have to wear the monitoring device for nearly two years, they would have addressed the issue of bond conditions in a completely different manner.

The passage of time has also weakened the Government's argument that Dr. Sayegh is a flight risk who needs to be subjected to continued electronic monitoring and curfew restrictions to ensure his appearance at trial. Significantly, Dr. Sayegh is an American citizen who has resided in Ohio for 12 years, and in the United States for 13 years; he owns property in Westlake, Ohio; both his mother and brother reside in the United States; he has relinquished his American and Jordanian passports and cannot travel overseas; and he has provided a $100,000 secured cash bond that would be forfeited if he attempted to flee. (Sayegh Mot. at 2-4.) Moreover, he is charged with a non-violent offense, and a review of the indictment confirms that he is a minor participant in the government's allegations. (*Id.*) Dr. Sayegh has no criminal history; he has no record of drug or alcohol abuse; he has never failed to appear in court; and, he has fully complied with all bond restrictions since October 2016. (*Id.*)

Given all these facts, continuing to wear the ankle bracelet constitutes an unnecessary hardship to Dr. Sayegh. It is expensive, physically uncomfortable, and limits Dr. Sayegh's employment options inasmuch as he must hide it from his patients and cannot obtain additional work in other dental practices to pay his daily living expenses and attorneys' fees. (*Id.*) The curfew restrictions also unnecessarily infringe on Dr. Sayegh's limited time with friends and family. (*Id.*) To require Dr. Sayegh to continue to wear the electronic monitoring device and be subject to curfew restrictions for more than another year until trial commences in late June 2018 is unnecessary and clearly constitutes a change of circumstance.

Rather than attempting to satisfy its burden of showing how or why the GPS monitoring device and curfew restrictions continue to be necessary to ensure Dr. Sayegh's appearance at trial, the Government contends that Dr. Sayegh has suffered no hardship because his "status as a criminal defendant is not a secret to the public or potential employers and patients, ***especially to those who would conduct due diligence beyond looking at his pant leg***." (Gov't Opp'n at 2) (emphasis added). This rather callous statement ignores the reality that dental patients typically have no reason or inclination to search court filings or public records to determine if their dentist has been indicted by the government. However, the presence of their dentist wearing an ankle bracelet might prompt such inquiries – or even worse, arouse unfounded fears that the presence of such a device suggests a history or propensity for violence or criminal conviction. Similarly, a potential employer could likely view the presence of a prospective dental hire wearing a GPS monitoring device as a factor that would frighten patients on these grounds and thus be a strong impediment for gaining employment. Accordingly, because the Government has not met its burden of showing that the monitoring device and curfew restrictions continue to be necessary to ensure Dr. Sayegh's appearance at trial, these conditions constitute pretrial punishment. *See Bell v. Wolfish,* 441 U.S. 520, 538 (1979) ("the proper inquiry is whether [pretrial] conditions amount to punishment of the detainee").

The Government also maintains Dr. Sayegh ignores "a wide variety of factual and geopolitical factors" in concluding that the extradition treaty between the United States and Jordan is sufficient to secure Dr. Sayegh's appearance at trial. (Gov't Opp'n at 3.) The Government further states that Dr. Sayegh "also assumes that Defendant would only travel to Jordan and not any other neighboring or nearby countries that do not have extradition treaties with the United States." (*Id.*) In making such statements, the Government ignores a variety of relevant factual and geopolitical factors, including that the countries in the Middle East are all independent and sovereign nations who do not necessarily permit residents of other countries to travel freely or reside within their boundaries. Dr. Sayegh has absolutely no familial, professional, or social connection to any country in the Middle East except for Jordan. More importantly, in today's environment and as a practicing Christian, Dr. Sayegh would likely face additional scrutiny and persecution in other Middle Eastern countries if he ever attempted to flee there as a fugitive. Consequently, there is no realistic possibility that Dr. Sayegh would ever flee the United States.

III. CONCLUSION

For the foregoing reasons, Dr. Sayegh requests that this Court remove the GPS electronic monitoring and curfew conditions.

Respectfully submitted,

/s/ Jennifer D. Armstrong

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CERTIFICATE OF SERVICE

I hereby certify that on May 31, 2017, the foregoing **Reply in Support of Defendant Tariq Sayegh's Motion To Modify Conditions And Incorporated Memorandum Of Law** was filed electronically. Notice of this filing will be sent to the parties by operation of the Court's electronic filing system.

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